article fourth.

THE IMPEACHMENT TRIAL.

THE PRESIDENT'S ANSWER. SCENES IN THE SENATE CHAMBER-THE PRESI-DENT SUBMITS A GENERAL DENIAL-HIS COUNSEL ASK FOR THIRTY DAYS DELAY-THE REQUEST NOT GRANTED-THE REPLICA-TION OF THE HOUSE MANAGERS TO BE PRE-SENTED TO-DAY.

WASHINGTON, Monday, March 23, 1868. The excitement in Washington to-day was not so intense as on previous impeachment days. One would hardly have supposed, from any indications on the streets or at the hotels, that the great trial was in progress-in which respect it was in marked contrast with ten days ago, when the city was agitated as it used to be only on receipt of decisive war news. It was known that the President's reply would be ready, and it was rumored that the President himself would appear in person in the Senate Chamber with his counsel; but few believed it, and they proved it unfounded. Little that is new can be said by way of description of the scene in the Senate Chamber up to 1 o'clock. As to floor, galleries, and attending circumstances, it was a repetition of what has been witnessed on each preceding day of the impeachment trial. The ticket system of admittance was rigidly adhered to, and no person without a ticket was admitted within the Senate wing of the Capitol. The galleries were filled to their capacity, the proportion of ladies to gentlemen was about five to one. The former were attired more gayly than on any previous day, because the weather was more suitable for the display of the latest Spring styles and for feminine dress parade. This made the scene exceedingly brilliant. Nearly all the gentlewomen known in the fashionable society of Washington were in the gallery. Among them were Mrs. and Miss Chandler, Mrs. Black, Mrs. Senator Sprague, Miss Nettie Chase, Miss Josie Spinner, Mrs. Gen. Butler, Miss Blanche Butler, Miss Cameron, Mrs. Logan, Miss Dixon, Miss Doolittle, Miss Frelinghuysen. Miss Drake and Mrs. Vice-President Wade. Several of the Foreign Ministers with their wives and daughters were in the Diplomatic Gallery. The galleries were thrown open at 11 o'clock and were filled

At 12 the Senate was called to order by Mr. Wade and the Chaplain in his matins alluded to the event that was about to become history, and invoked the Divine blessing on the ceremonies. At 12] o'clock Mr. Wade interrupted legislative business with a rap of his gavel, to say that under the Eleventh Rule for the government of the Senate, sitting as a Court of Impeachment, the hour had arrived for him to vacate the chair. Mr. Trumbull immediately rose to dissent from this construction of the rules, believing that Legislative business should continue until 1 o'clock; and one Sonator after another discussed the subject until the half hour in dispute had been nearly consumed in the wrangle. The Secretary of the Senate was ordered to inform the House that the Senate was ready to sit as a Court, and at 1 o'clock Mr. Wade vacated the chair.

About three minutes elapsed before the Chief Justice entered the chamber. On entering he at once went to the Chair, rapped feebly on the desk in front of him, and said in a voice that few could hear, "the Court will please come to order.' This was in direct violation of the point which was raised by Mr. Drake with so much emphasis a few days ago, that it was not a Court, but that it was the Senate all the time. It was noticeable throughout the day's proceedings. too, that there was no uniformity in the manner of addressing the Chair. Some Senators said "Mr. President," others "Mr. Chief Justice." The President's counsel invariably used the latter phrase.

The Managers of the Impeachment, on the part of the House, were next announced. They entered by the main door, linked arm in arm, two by two as heretofore. Thaddeus Stevens had come in half an hour previously, and was scated in an 'easy chair at the Managers' table. He seemed to take little interest in the proceedings, and was apparently in a dose half the time. Close following the Managers cam the members of the House, led by Mr. Washburne of Illinois and Speaker Colfax. As the members, nearly two hundred in number, poured in through the door in a disorderly rush, they filed to the right and left, and took seats which filled the lobbies to receive them. After five minutes of noise and confusion, the chamber was hushed to silence, and the Chief-Justice directed the Sergeant-at-Arms to make proclamation. This he did by reading from a paper before him a command that all be silent while the Senate sits as a Court for the trial of articles of impeachment against Andrew Johnson. After the reading of the journal of the last day's proceedings. Mr. Doolittle, who has been absent on Court days hitherto, was called to the desk and sworn as a member of the Court.

The President's counsel had by this time entered, and seated themselves at their table, to the right of the chair, Mr. Stanbery leading, followed by Mr. Evarts, Mr. Curtis, Mr. Groesbeck, and Judge Nelson. Mr. Groesbeck, who took the place of Jeremiah S. Black, is a lawyer of high standing in the West, and an ex-Congressman who did much toward finishing his career as a public man by voting for the Lecomp

ton swindle. Immediately after the reading of the journal, Garret.Davis rose with a motion, whose character was well understood before the little old man had straightened himself out of his bow to the Chair. It was the same made by him in the Senate two weeks age, to the effect that the Senate wasn't a Senate, nor the Court a Court, because ten States were denied representation in Congress. Mr. Howard scarcely waited for the reading of Mr. Davis's remarkable document, but was instantly on the floor to object to its being received. Mr. Conness turned Mr. Howard's objection into a motion that the Davis proposition be not received, and Howe of Wisconsin topped both the objection and the motion with a point of order, that the Court could not entertain the proposition. The Chief-Justice briefly glanced at the rules before him, and decided that as a member of the Court Mr. Davis had a right to make the motion; so the proposition was put to a vote, and on a call of the Yeas and Nays received 2 affirmatives and 49 pegatives. The affirmatives were Mr. Davis and his colleague, Mr. McCreery. Of course, Kentucky slood "grand, gloomy, and peculiar." She was not even reënforced by Delaware; for Mr. Saulsbury sat silent in his seat, and Mr. Bayard was not in the chamber. All the other Democrata and Conservatives voted straight nay-even the President's sonin-law. The Chair then informed the President's counsel that the Court was ready to receive the

answer of the President. Mr. Stanbery rose and said that he and his associates were here in obedience to the order of the Court. They had dismissed all other professional and private business, and devoted themselves assiduously to their task, working night and day, and yet had not had time enough to prepare as they would like. With these few words Mr. Stanbery gave way to Mr. Curtis, who commenced the reading of the answer, and continued it half an hour in good voice, audible to all. He finished the answer to the first article, and was then relieved by Mr. Stanbery, who consumed the next half hour in reading to the tenth article. Mr. Evarts read what remained in another half hour. This being his first appearance in the case, he received. marked attention. It was 3 o'clock when Mr. Evarts

finished the reading. The Chief-Justice put to the Court a' motion that the answer be received and filed, and the motion was adopted without dissent. Mr. Bontwell immediately rose and said, in behalf of the Managers, that they would be ready with their replication to-morrow. Mr. Evarts entered a request which detained it two hours in discussion. This restricted is the Providence of the power and authority bours in discussion. This was that the President's vested in him as President of the United States, by the counsel have thirty days' time granted them to get ready for the trial. Mr. Evarte spoke briefly, and I to such his decision and determination did on the ath

with his characteristic force and precision. He was followed by Mr. Logan, on behalf of the Managers, who argued against the motion, making a strong and forcible speech. Mr. Evarts again took the floor, not in reply to Mr. Logan, but in continuation of his own argument to show why the time asked for should be granted. Next came Mr. Wilson in a speech full of strong points. . Mr. Stanbery made a short reply and a strong appeal for his client, and then Mr. Butler brought the debate to a close with a sharp speech which elicited laughter from the galleries. The vote was then taken, and the thirty-days request was denied by 41 to 12. Other motions were made; but pending one to grant ten days, the Court adjourned until to-morrow at 1 o'clock.

THE SENATE AS A COURT OF IMPERCHMENT. At 1 o'clock the Chief-Justice entered the Senate Chamber by a side door to the left of the chair, and, having taken the scat which the President of the Senate had just vacated, called the Court to order. The Sergeant-at-Arms made the usual proclamation commanding silence, and thereupon the Managers appeared at the door. The Sergeaut-at-Arms announced the Managers of the Impeachment on the part of the House of Representatives. and the Chief-Justice said: The Managers will take the seats assigned to them by the Senate. Messrs. Bingham and Boutwell led the way up the aisles and took their seats. Meantime Messrs. Stanbery, Curtis, Nelson, Evarts, and Groesbeck, counsel for the President, entered and took seats at their table in the order named, Mr. Stanbery on seats at their table in the case:
the extreme right. The Sergeant-at-Arms then announced
the House of Representatives, and the members of the
House of Representatives, and the members of the
House appeared, headed by Mr. Washburn on the arm of
Mr. MePherson. Clerk of the House. Representatives,
by direction of the Chiel-Justice, took scats outside the
bar, and the Secretary of the Senate then read the
minutes of the proceedings of Friday, the 13th inst.
Mr. DOOLITTLE, having been called by the Clerk,
stepped forward and took the oath.
Senator DAVIS said: Mr. Chief-Justice, I rise to make
the same proposition to this Court that I made to the
Senate proceeds to take up the case. I, therefore, submit to the Court a motion in writing.

The Secretary read as follows:

"Mr. Davis, a member of the Senate in the Court of Impeachment,
moves the Court to take this order: That the Constitution having invested the Senate with the sole newer to tre Articles of Impeachment, of
the Presidual of the United States preferred by the House of Representatives, and, having proclined that the Senate shall be composed of two
Senators from each State, to be chosen by the Logislature thereof, and
the States of Virginal North Carelhas, South Carolhas, Georgia, Alathe extreme right. The Sergeant-at-Arms then announced

mator HOWARD-Mr. President-e CHIEF-JUSTICE-The question must be decided

intor HOWARD-I object to the receiving of the

paper.
Senator CONNESS—I desire to submit a motion which
will meet the case. I move that the motion be not received, upon which I call for the Yeas and Nays.
Senator HOWE—I rise to submit a question of order.
The CHIEF-JUSTICE—The Senator will state his point
of order.

The CHIEF-JUSTICE—The Schator will state his point of order.
Senator HOWE—I would ask if the motion offered by the Senator from Kentucky be in order?
The CHIEF-JUSTICE—The motion comes before the Senate in the form of a motion submitted, made by a member of the Senate sitting as a Court of Imperalment. The 23d Rule requires that all the orders and decisions shall be made and had by Yens and Nays, which shall be entered on the record, and without debate, subject, however, to the operation of Rule 7. The 7th Rule requires the presiding officer to, in the first instance, submit to the Senate without a division all questions of evidence in incidental questions; but the same shall, on demand of one-fifth of the members present, be decided by Yeas and Nays. The question, then, being on a proposition submitted by a Senator under the 23d Rule, it is in order.

Mr. CONNESS—Mr. President, is the motion submitted by me in order?

Mr. CONNESS—Mr. President, is the motion submitted by me in order!
CHIEF-JUSTICE—No, Sir.
The call for the Yeas and Nays were ordered, and they were called, Messrs. Davis and McCreery only voting "Yea." Messrs. Saulsbury, Bayard, and Wade did not vote, so the motion was not agreed to.
Mr. STANBERY then rose and said: Mr. Chief-Justice: In obedience to an order of this honorable Court, made at the last session, that the answer of the President should be filed to-day, we have it ready. The counsel for the President, abandoning all other business, some of us quitting our Courts, our cases, and our clients, have devoted every hour to the consideration of this case. The labor has been incessant. We have devoted, as I say, not only every hour ordinarily devoted to business, but many required for necessary rest and recreation have been consumed in it. It is a matter of regret that the Court did, not allow us more time for preparation; nevertheless, we hope that the uniwer will be found in all respects sufficient, such as it is. We are now ready to read and file it.
Mr. CURTIES proceeded to read the answer as follows:

In the Senate of the United States, silting as a Court of Im-peachment for the trial of Andrew Johnson, President of the United States. The Answer of the said Andrew Johnson, President of the United States, to the Articles of Impeachment exhibited against him by the House of Representatives of the United States. THE PRESIDENT'S ANSWER.

ANSWER TO ARTICLE I .- For answer to the first article, he says: That Edwin M. Stanton was appointed Secretary for the Department of War on the 15th day of January, A. D. 1862, by Abraham Lincoln, then President of the United States, during the first term of his Presidency, and was commissioned according to the Constitution and the laws of the United States, to hold the said office during the pleasure of the President; that the office for Secretary for the Department of War was created by an act of the 1st Congress in its first session, passed on the 7th day of August, A. D. 1789, and in that act it was provided and enacted that the said Secretary for the Department of War shall perform and execute uch duties as shall from time to time be enjoined on and strusted to him by the President of the United States, agreeably to the Constitution, relative to the subject within the scope of said Department. And furthermore, that the said Secretary shall conduct the business of the said Department in such a manner as the President of the United States shall from time to time order and instruct. And this respondent further answering says, that by force of the act aforesaid, and by reason of his appointment aforesaid, the said Stanton became the principal officer in one of the Executive Departments of the Government, within the true intent of the second sec tion of the second article of the Constitution of the United States, according to the true intent and meaning of that provision of the Constitution of the United States, and in ecordance with the settled and uniform practice of each and every President of the United States. The said Stanton then became, and, so long as he should continue to hold the office of Secretary for the Department of War, must continue to be, one of the advisers of the President of the United States, as well as the person entrusted to act for and represent the President in matters tenjoined upon him, or entrusted to him by the President touching the Department aforesaid, and for whose conduct in such capacity, subordinate to the President, the President is by the Constitution and laws of the United States made reponsible. And this respondent, further answering, says he succeeded to the office of President of the United States upon and by reason of the death of Abraham Lancoln, then President of the United States, on the 15th day of April, 1865, and the said Edward M. Stanton was then holding the said office of Secretary for the Department of War, under and by reason of the appointment and commission aforesaid; and not having been re moved from the said office by this respondent; the said Edwin M. Stanton continued to hold the same under the appointment and commission aforesaid, at the pleasure of the President, until the time hereinafter particularly mentioned, and at no time received any appointment or commission as above detailed. And this respondent, further answering, says that on and prior to the 5th day of August, A. D., 1867, this respondent, the President of the United States, responsible for the conduct of the Secretary for the Department of War, and having the constitutional right to resort to and rely upon the person holding that office for advice concerning the great and difficult public duties enjoined on the President by the Constitution and laws of the United States, became satisfied that he could not allow the said Stanton to continue to hold the office of Secretary for the Department of War, without hazard of the public interest; that the relations between the said Stanton and the President no longer permitted the President to resort to him for advice, or to be, in the judgment of the President, safely responsible for his conduct of the affairs of the Department of War as by law required, in accordance with the orders and instructions of the President and thereupon by force of the Constitution and laws of the United States which devolve on the President the power and the duty to control the conduct of the business of that Executive Department of the Government, and by reason of the constitutional duty of the President to take care that the laws be faithfully executed, this respondent did necessarily con sider and did determine that the said Stanought no longer hold the said office

Constitution and laws of the United States, to give effect

day.of August A. D., 1867, address to the said Stanton a note, of which the following is a true copy:

Sir: Public considerations of a high character constrain me to say that your resignation as Secretary of War will be accepted.

Description of the same. You will at once transfer to Gen. Ulysses S. Grant, who has this day been authorized and employed to act as Secretary of War ad interim, all records, books, papers, and other public property now in your custody and charge.

The Hon. Edwin M. Stanton, Secretary of War. Sir: Public considerations of a high character con-strain me to say that your resignation as Secretary of War will be accepted.

To which note the said Stanton made the following

reply:

WAR DEPARTMENT, WASHINGTON, Aug. 5, 1867.

SIR: Your note of this day has been received, stating that "public considerations of a high character constrain you to say that my resignation as Secretary of War will be accepted." In reply, I have the honor to say that public considerations of a high character, which alone have induced me to continue at the head of this Department, constrain me not to resign the office of Secretary of War before the next meeting of Congress.

Very respectfully yours, EDWIN M. STANTON.

This respondent, as President of the United States, was

This respondent, as President of the United States, was thereon of opinion that, having regard to the necessary official relations and duties of the Secretary for the Department of War, to the President of the United States, according to the Constitution and laws of the United States, and having regard to the responsibility of the President for the conduct of the said Secretary, and having regard to the paramount executive authority of the office which the respondent holds under the Constitution and laws of the United States, it was impossible, consistently with the public interests, to allow the said Stanton to continue to hold the said office of Secretary for the Department of War; and it then became the official duty of the respondent, as President of the United States, to nsider and decide what act or acts should and might lawfully be done by him, as President of the United States, to cause the said Stanton to surrender the said office. This respondent was informed, and verily believes, was practically settled by the 1st Congress of the United States, and had been so considered, and uniformly and in great numbers of instances acted on, by Congress and the President of the United States, in succession from President Washington to and including President Lincoln, and from the First to the Thirty-ninth Congress; that the Constitution of the United States conferred on the President, as part of the executive power and as one of the necessary means and instruments of performing the executive duty expressly imposed on him by the Constitution, of taking care that the laws be faithfully executed. The power, at any and all times, of removing from office all executive officers, for cause to be judged of by the President alone. This respondent had, in pursuance of the Constitution, required the opinion of each principal officer of the Executive Departments upon the question of constitutional executive power and duty, and had been advised by each of them, including the said Stanton, Secretary for the Department of War, that under the Constitution of the United States this power was lodged by the Constitution in the President of the United States, and that consequently it could be lawfully exercised by him, and Congress could not deprive him thereof, and this respondent, in his capacity of President of the United States, and because in that capacity he was both enabled and bound to use his best judgment upon this question, did in good faith, and with honest desire to arrive at the truth, come to the conclusion and opinion, and did make the same known to the honorable the Senate of the United States, by a message dated on second day of March, 1867, a true copy whereof is hereunto annexed and marked "A," that the power last mentioned was conferred, and the duty of exercising it in fit cases United States; and that the President could not be deprived of this power, or relieved of this duty; nor could the same be vested by law in the President and the Senate jointly, either in part or in whole; and this has ever since remained, and was the opinion of this respondent at the time when he was forced as aforesaid to consider and decide what act or acts should and might be lawfully done by this respondent as President of the United States to cause the said Stanton to surrender the said office. This respondent was also then aware that by the 1st section of an act regulating the tenure of certain civil offices, passed March 2, 1867, by a constitutional majority of both Houses of Congress, it was enacted as follows:

both Houses of Congress, it was enacted as follows:

"That every person holding any civil office, to which he has been appointed by and with the advice and consent of the Senate, and every person who shall hereafter be appointed to any such office and shall become duly qualified to act therein, is and shall be entitled to hold such office until a successor shall have been in like manner appointed and duly qualified, except as herein otherwise provided."

"Provided that the Secretaries of State, of the Treasury, of War, of the Navy, and of the Interior, the Postmaster-General, and the Attorney-General shall hold their offices respectively for and during the term of the President by whom they may have been appointed, and for one month thereafter, subject to removal by and with the advice and consent of the Senate."

This respondent was also aware that this act was un-

This respondent was also aware that this act was understood and intended to be an expression of the opinion by which that act was passed: that the power to remove the Executive officers for cause might by law be taken from the President and vested in him and the Senate jointly; and, although this respondent had arrived at and still retained the opinion above expressed, and verily believed, as he still believes, that the first section of the last-mentioned act was, and is, wholly inoperative and void by reason of its conflict with the Constitution of the United States, yet inasmuch as the same has been enacted by the constitutional majority in each of the two Houses of that Congress, this respondent considered it to be proper to examine and decide whether the partic ular case of the said Stanton, on which it was this respondent's duty to act, was within or without the terms of that first section of the act; or, if within it, whether the President had not the power, according to the terms of the act, to remove the said Stanton from the office of Secretary for the Department of War; and having in his capacity of President of the United States so examined and considered, did form the opinion that the case of the said Stanton and his tenure of office were not affected by the first section of the last-named act; and this respondent, further answering, says: That, although a case thus existed, which, in his judgment as President of the United States, called for the exercise of the Executive power to remove the said Stanton from the office of Secretary for the Department of War; and although this respondent was of opinion, as is above shown, that under the Constitution of the United States the power to remove the said Stanton from the said office was vested in the President of the United States; and although this respondent was also of the opinion, as is above shown, that the case of the said Stanton was not affected by the first section of the last-named act; and although each of the said opinions had been formed by this respondent upon an actual case requiring him in his capacity of President of the United States to come to some judgment and determination thereon, yet this respondent, President of the United States, desired and determined to avoid, if possible, any question of the construction and effect of the said first section of the last named act, and, also, the broader question of the Executive power conferred on the President of the United States, by the Constitution of the United States, to remove one of the principal officers of one of the Executive Departments, for cause, seeming to him sufficient; and this respondent, also, desired and determined that, if from causes over which he could exert no control, it should become abso-Intely necessary to raise, and have in some way determined, either or both of the last named questions, it was in accordance with the Constitution of the United States, and was required of the President thereby, that questions of so much gravity and importance, upon which the Legislative and Executive Departments of the Government had disagreed; which involved powers, considered by all branches of the Government, during its entire history down to the year 1867, to have been confided by the Constitution of the United States to the President, and to be necessary for the complete and proper execution of his constitutional duties, and should be in some proper way submitted to that judicial department of the Government intrusted by the Constitution with the power, and subjected by it to the duty not only of determining finally the construction and effect of all acts of Congress, but by comparing them with the Constitution of the United States, and pronouncing them in operative where found in conflict with that fundamental law which the people have enacted for the government of all their servants. And to these ends, first, that through the action of the Senate of the United States the absolute duty of the

President to substitute some fit person in place of Mr. Stanton as one of his advisers, and as a principal subordinate officer, whose official conduct he was responsible for and had lawful right to control, might, if possible, be accomplished without the necessity of raising any one of the questions aforesaid; and, secondly, if this duty could not be so performed, then that these questions, or such of them as might necessarily arise, should be judicially determined in the manner aforesaid, and for no other end or purpose, this respondent, as President of the United States, on the 12th day of August, 1867, seven days after the reception of the letter of the said Stanton, of the 5th day of August, hereinbefore stated, did issue to the said Stanton the order following,

viz.:

EXECUTIVE MANSION, WASHINGTON, Aug. 12, 1867.

SIR: By virtue of the power and authority vested in me, as President, by the Constitution and laws of the United States, you are hereby suspended from office as Secretary of War. and will cease to exercise all functions

To which said order the said Stanton made the follow-

WAR DEPARTMENT.

WASHINGTON CITY, Aug. 12, 1867.

SIR: Your note of this date has been received, informing me that by virtue of the powers vested in you as President, by the Constitution and laws of the United States, I am suspended from office as Secretary of War, and will cease to exercise any and all functions pertaining to the same, and also directing me at once to transfer to Gen. Ulysses S. Grant, who has this day been authorized and empowered to act as Secretary of War ad interim, all records, books, papers, and other public property now in my custody and charge. Under a sense of public duty. I am compelled to deny your right under the Constitution and laws of the United States, without the advice and consent of the Senate, and without legal cause, to suspend me from office as Secretary of War, or the exercise of any or all functions pertaining to the same, or without such advice and consent to compel me to transfer to any person the records, books, and papers, and public property in my custody as Secretary, but inasmuch as the General commanding the Armies of the United States has been appointed ad interim, and has notified me that he has accepted the appointment, I have no alternative but to submit, under protest, to superior force.

"To the President." WAR DEPARTMENT.

mit, under protest, to superior force. "To the President." And this respondent, further answering, says: That it is provided in and by the second section of an Act to regulate the tenure of certain civil officers, that the President may suspend an officer from the performance of the duties of the office held by him for certain causes therein designated, until the next meeting of the Senate, and until the case shall be acted on by the Senate; that this respondent, as President of the United States, was advised, and he verily believed and still believes that the Executive power of removal from office confided to him by the Constitution aforesaid includes the power of suspension from office at the pleasure of the President, and this respondent, by the order aforesaid, did suspend the the Senate, or until the Senate should have acted upon the case, but by force of the power and authority vested in him by the Constitution and laws of the United States indefinitely and at the pleasure of the President; and the order in form aforesaid was made known to the Senate of the United States on the 12th day of December, A. D. 1867, as will be more fully hereinafter stated.

And this respondent, further answering, says that in

and by the act of Feb. 13, 1795, it was, among other

things, provided and enacted that in case of vacancy in the office of Secretary for the Department of War, it shall be lawful for the President, in case he shall think it necessary, to authorize any person to perform the duties of the office until a successor be appointed or such vacancy filled, but not exceeding the term of six months; and this respondent being advised and believing that such law was in full force and not repealed, by an order dated August 12, 1867, did authorize and empower Ulysses 8, Grant, General of the Armies of the United States, to act as such Secretary for the Department of War, ad interm in the form in which similar authority had heretofore been given, not until the next meeting of the Senate should act on the case, but at the pleasure of the President, subject only to the limitation of six months in the said last-mentioned act contained, and a copy of the last named order was made known to the Senate of the United States on the 12th day of December, A. D. 1867, as will be hereinafter more fully stated. And in pursuance of the designated intention aforesaid, if it should become necessary to submit the said questions to a judicial determination, this respondent at or near the date of the last-mentioned order, did make known such his purpose, to obtain a judicial decision of the said questiof them as might be necessary. And this respondent further answering, says that, in further pursuance of his intention and design, if possible to perform what he believed to be his imperative duty, to prevent the said Edwin M. Stanton from longer holding the office of the Secretary for the Department of War, and at the same time avoiding, if possible, any question respecting office, confided to the President by the Constitution of the United Stares; and any question respecting the construction and effect of the first section of the said "Act regulating the Tenure of certain Civil Officers," while he should not by any act of his abandon and relinquish either a power which he believed the Constitution had conferred on the President of the United States to enable him to perform the duties of his office, or a power de signedly left to him by the first section of the act of Congress, last aforesaid, this respondent did on the 12th day of December, 1867, transmit to the Senate of the United States a message, a copy of which is hereunto annexed, marked R. wherein he made known the orders afore said and the reasons which had induced the same, as far as this respondent then considered it material and necessary that the same should be set forth, and reiterated his views concerning the constitutional power of removal vested in the President, and also expressed his views concerning the construction of the said first section of the last mentioned as respected the power of the President to remove the said Stanton from the said office of Secretary for the Department of War, well hoping that this respondent could thus perform what he then believed and still believes to be his imperative duty in reference to the said Stanton without derogating from the powers which this respondent believed were confided to the President by the Constitution and the laws, and without the necessity of raising judicially any question respecting the same. And, this respondent further answering, says that this hope not having been realized, the President was compelled either to allow the said Stanton to resume the said office, and remain therein contrary to the settled convictions of the President formed as aforesaid, respecting the powers confided to him, and the duties required of him by the Constitution of the United States, and contrary to the opinion formed as aforesaid that the first section of the last mentioned act did notfaffect the case of the said Stanton. and contrary to the fixed belief of the President, that he could no longer advise with, or trust, or be responsible for the said Stanton, or the said office of Secretary of War, or else he was compelled to take such steps as might, in the judgment of the President, be lawful and necessary to raise for a judicial decision the questions affecting the lawful right of the said Stanton to resume the said office, or the power of the said Stanton to persist in refusing to quit the said office, if he should persist in actually refusing to quit the same; and to this end only this respondent did, on the 21st day of February, 1868, issue the order for the removal of the said Stanton, in the said first article mentioned and set forth, and the order authorizing the said Lorenzo F. Thomas to act as Secretary of War ad

njerim, in the said second article set forth. And this respondent, proceeding to answer specifically each substantive allegation in the first article, says: He denics that the said Stanton, on the 21st day of Febru ary, 1868, was lawfully in possession of the said office of Secretary for the Department of War. He denies that the said Stanton, on the day last mentioned, was lawfully entitled to hold the said office against the will of the President of the United States. He denies that the said order for the removal of the said Stanton was unlawfully issued. He denies that the said order was issued with intent to violate the act entitled "An Act to regulate the tenure of certain civil offices." He denies that the said order was a violation of the last-mentioned act. He denies that the said order was a violation of the Constitution of the United States, or of any law thereof, or of his oath of office. He denies that the said order was issued with an intent to violate the Constitution of the United States, for any law thereof, or this respondent's oath of office; and he respectfully, but earnestly, insists, that not only was it issued by him in the performance of what he believed to be an imperative official duty, but in the performance of what this honorable Court will consider was, in point of fact, an imperative efficial duty. And he denies that any and all substantive matters in the said first article, contained in manner and form as the same and therein stated and set forth, do by law constitute a high misdemeanor in office within the true intent and meaning of the Constitu-

tion of the United States. ANSWER TO ARTICLE II.—And for answer to the second article, this respondent says: That he admits he did assne and deliver to said Lorenze Thomas the said writing set forth in the said second article, bearing date at Washington, D. C., February 21, 1868, addressed to Brevet Major-Gen. Lorenzo Thomas, Adjutant-General U. S. Army, Washington, D. C.; and he further ad mits that the same was so issued without the advice and consent of the Senate of the United States then in session, but he denies that he thereby violated the Constitution of the United States any law thereof, or that he did thereby intend to violate the Constitution of the United States or the provisions of any act of Congress; and this respondent refers to his answer to said first article, for a full statement of the purposes and intentions with which said order was issued, and adopts the same as part of his answer to this article; and he further denies that there was then and

Department of War, or that he did, then and there, commit, or was guilty of a high misdemeanor in office; and this respondent maintains, and will insist:

First: That, at the date and delivery of said writing, there was a vacancy existing in the office of Secretary for the Department of War.

Second: That, notwithstanding the Senate of the United states was then in session, it was lawful, and necording to long and well established usage, to empower and authorize the said Thomas to act as Secretary of War ad

Third: That, if the said act regulating the tenure of designation of said Thomas to act as Secretary of War ad

ANSWER TO ABTICLE III .- And for answer to said third article, this respondent says that he abides by his answers to said first and second articles in so far as the same are responsive to the allegations contained in the said third article, and, without here again repeating the same answer, prays that the same be taken as an answer to this third article, as fully as if here again set out at length; and, as to the new allegation contained in said third article, that this respondent did appoint the said Thomas to be Secretary for the Department of War ad interim, this respondent denies that he gave any other authority to said Thomas than such as appears in said written authority set out in said article, by which he authorized and empowered said Thomas to act as Secretary for the Department of War ad interim; and he denies that the same amounts to an appointment, and insists that it is only a designation of an officer of that Dement of War ad interim until an appointment should be made; but whether the said written authority amounts to any appointment or to a temporary authority, or designation, this respondent denies that in any sense he did thereby intend to violate the Constitution of the United States, or that he thereby intended to give the said order the character or effect of an appointment in the constitutional or legal sense of the term. He further denies that there was no vacancy in said office of Secretary for the Department of War existing at the date of said written

ANSWER TO ARTICLE IV-And for answer to said fourth article, this respondent denies that on the 21st day of February, 1868, at Washington aforesaid, or at any other time or place, he did unlawfully conspire with the said Lorenzo Thomas, or with the said Thomas or any other person or persons, with intent by intimidation and threats unlawfully to hinder and prevent the said Stanton from holding said office of Secretary for the Department of War, in violation of the Constitution of the United States, or of the provisions of the said act of Con gress in said article mentioned, or that he did then and there commit, or was guilty of a high crime in office; on the contrary, therefore, protesting that the said Stanton was not then and there lawfully the Secretary of the Department of War; this respondent states that his sole purose in authorizing the said Thomas to act as Secretary for the Department of War, ad interim, as is fully stated, in his answer to the said first article, to bring the question of the right of said Stanton to hold said office, notwithstanding his said suspension, and notwithstanding the said order of removal, and notwithstanding the said authority of the said Thomas to act as Secretary of War, ad interim, to the test of a final decisio by the Supreme Court of the United States in the earliest ractical mode in which the question could be brought before that tribunal. This respondent did not conspire or agree with the said Thomas or any other persons to ise intimidation or threats to hinder or prevent the said Stanton to hold the office of Secretary for the Department of War; nor did this respondent at any time command or advise the said Thomas, or any other person or persons, to resort to or use either threats or intimidation for that purpose. The only means in the contemplation in the said orders of February 21; the first, addressed to Mr. Stanton, and the second to the said Thomas. By the first order the respondent notified Mr. Stanton that he was removed from the said office, and that functions as Secretary for the Department of War were to terminate upon the receipt of that order. And he also notified the said Stanton that the said Thomas had been authorized to act as Secretary for the Department of War, ad interim, and ordered the said Stanton to transfer to him all the records, books, papers, and other public property in his custody and charge; and by the second order, this respondent notified the said Thomas of the removal from office of the said Stanton, and authorized him to act as Secretary for the Department of War, ad interim, and d diately enter upon the discharge of the duties pertaining to that office, and to receive the transfer of all the records, books, papers, and other public property from Me. Stanton-then in his enstedy and charge. Respondent gave ne instructions to the said Thomas to use intimida tion or threats to enforce obedience to these orders. He gave him no authority to call in the aid of the military or any other force to enable him to obtain possession of the office, or of the books, papers, records, or property thereof. The only agency resorted to, or intended to be resorted to, was by means of the said executive orders requiring obedience, but the Secretary for the Department of War refused to obey these orders, and still holds undisturbed possession and custody of that department, and of the records, books, papers, and other public property therein Respondent further states that, in execution of the orders so by this respondent given to the said Thomas, he, the said Thomas, proceeded in a peaceful manner to demand of the said Stanton a surrender to him of the public preperty in the said department, and to vacate the possession of the same, and to allow him, the said Thomas, peaceably to exercise the duties devolved upon him by authori ty of the President; that, as this respondent has been informed and believes, the said Stanton peremptorily refused obedience to the orders so issued. Upon such re fusal, no force or threat of force was used by the said Thomas by authority of the President or otherwise, to enforce either then or at any subsequent time. This respondent doth here except to the sufficiency of the allegations contained in said fourth article, and states for ground of exception that it is not stated that there was any agree ment between this respondent and the said Thomas or any other person or persons, to use intimidation and threats; nor is there any allegation as to the nature of said intimidation and threats, or that there was any agreement to carry them into execution, or that any step was taken or agreed to be taken to carry them into exe ention, and that the allegation in said article, that the intent of said conspiracy was to use intimidation and threats, is wholly insufficient, inasmuch as ittis not alleged that the said intent formed the basis or became a part of any agreement between the said alleged conspirators; and furthermore, that there is no allegation of any con spiracy or agreement to use intimadation or threats.

ANSWER TO ARTICLE V .- And for answer to the said fifth article, this respondent denies that on 31st day of February, 1868, or at any other time or times in the said year, before the said 2d day of March, 1868, or at aug prior or subsequent time, at Washington aforesaid, or at any other place, this respondent did unlawfully conspire with the said Thomas, or with any other person or per sons, to prevent or hinder the execution of the said act entitled, "An Act regulating the tenure of certain civil officers," or that, in pursuance of said alleged conspiracy, he did unlawfully attempt to prevent the said Edwin M. Stanton from holding said office of Secretary for the Department of War, or that he did thereby commit, or that he was thereby guilty of, a high misdemeanor in office Respondent, protesting that said Stanton was not then and there Secretary of War, begs leave to refer to his answer given to the fourth article, and to his answer given to the first article, as to his intent and purpose in issuing the orders for the removal of Mr. Stanton, and the authority given to the said Thomas, and prays equal benefit therefrom as if the same again repeated and fully set And this respondent excepts to the sufficiency of the said fifth article, and states his ground for such exception, that it is not alleged by what means, or by what argument, the said alleged conspiracy was formed, or agreed to be carried out, or in what way the same was attempted to be carried out, or what were the acts done

in pursuance thereof. ANSWER TO ARTICLE VI .- And for answer to the said sixth article this respondent denies that on the said 21st day of February, 1868, at Washington, aforesaid, or at any other time or place he did unlawfully conspire with the said Thomas by force to seize, take, or possess the property of the United States, in the Department of War, contrary to the provisions of the said acts referred to in the said article, or either of them, or with intent to violate either of them. Respondent protesting that said Stanton was not then and there Secretary for the Department of War, not only denies the said conspiracy as charged, but also denies any unlawful intent in reference to the custody and charge of the property of the United there no vacancy in the said office of Secretary for the | States in the said Department of War, and again refers to

his former answers for a full statement as his intent and

purpose in the premises. ANSWER TO ARTICLE VII .- And for answer to the said seventh article respondent denies that on the said 21st day of February, 1868, at Washington aforesaid, or at any other time and place, he did unlawfully conspire with the said Thomas, with intent unlawfully to seize, take, or possess the property of the United States in the Depart ment of War, with intent to violate or disregard the said act in the seventh article referred to, or that he did then and there commit a high misdemeanor in office. Respond ent protesting that the said Stanton was not then and there Secretary for the Department of War, again refers civil offices be held to be a valid law, no provision of the same was violated by the issuing of said order, or by the and prays equal benefit therefrom as if the same were here again fully repeated. Respondent further takes exception to the sufficiency of the allegations of this article, as to the conspiracy alleged, upon the same ground as stated in the exception set forth in his answer to said

> ANSWER TO ARTICLE VIII .- And, for answer to the said eighth article, this respondent denies that on the 21st day of February, 1868, at Washington aforesaid, or at any other time and place, he did issue and deliver to the said Thomas the said letter of authority, set forth in the said eighth article, with the intent unlawfully to control the disbursements of money appropriated for the milli tary service and for the Department of War. This respondent, protesting that there was a vacancy in the said office of Secretary for the Department of War, admits that he did issue the said letter of authority, and whatever, either to violate the Constitution of the United States or any act of Congress; on the contrary, this dicate his authority as President of the United States, and by peaceful means to bring the question of the right Secretary of War to a final decision before the Supreme Court of the United States, as has been hereinbefore set forth, and he prays the same benefit from his answer is the premises as if the same were here again repeated at

ANSWER TO ARTICLE IX .- And for answer to the said ainth article the respondent states that, on the said 224 day of February, 1868, the following note was addressed to the said Emery by the Private Secretary of re-

Spendents

EXECUTIVE MANSION,
WASHINGTON, D. C., Feb. 22, 1868.

GENERAL: The President directs me to say that he will
be pleased to have you call upon him as early as practicable. Respectfully and truly yours,
WILLIAM G. MOORE, U. S. A.

Gen. Emory called at the Executive mansion according to this request. The object of respondent was to be advised by Gen. Emory, as Commander of the Department of Washington, what changes had been made in the military affairs of the Department. Respondent had been nformed that various changes had been made, which in ne wise had been brought to his notice or reported to him from the Department of War, or from any other quarter, and desired to ascertain the facts. After the said Emory had explained in detail the changes which had taken place, said Emory called the attention of respondent to a General Order which he referred to, and which the espondent then sent for, when it was produced. It is as

WAR DEPARTMENT, ADJUTANT-GENERAL'S OFFICE. WASHINGTON, D. C., March 14, 1887.

GENERAL ORDER, NO. 17.—The following Acts of Congress are published for the information and government of all concerned.

(2. Public, No. 85.)

AN ACT making appropriations for the support of the Army for the year ending June 20, 1888, and for other purposes.

Exc. 2. And be if further enacted. That the Headquarters of the General of the Army shall be at the City of Washington, and all orders and instructions relating to military operations issued by the Precident of Secretary of War shall be isseed through the General of the Army, and, in case of his issability, through the next in rank. The General of the Army shall not be removed, suspended, or releved from command, or assigned to daity elsewhere than at said headquarters, except at his own request, without the or vious approval of the Senate, and any enders or instructions relating to misitary operations issued contrary to the requirements of this section, shall be mil and word, and any officer who shall issue orders or instructions contrary to the provisions of this section, shall be deemed guilty of misdeuesanor in office; and any officer of the army who shall transint, convey, or obey any orders of na vections so issued contrary to the provisions of this section, knowing that such orders were so issued, shall be liable to imprisonment for not less than two nor more than twenty years, upon corriction thereof in any Centr of compensation indicates. Approved March 2, 1807. By order of the Secretary of War.

Gen. Emory not only called the attention of respondent to this order, but to the fact that it was in conformity with a section contained in an appropriation act passed by Congress. Respondent, after reading the order, ob-

"This is not in accordance with the Constitution of the United States, which makes me Commander in Chief of the Army and Navy, or of the language of the commission which you hold.

Gen. Emory then stated that this order had met respondent's approval. Respondent then said, in sub-

Am I to understand that the President of the United States cannot give an order but through the General-in-Chief or Gen. Grant?

Gen. Emory again reiterated the statement that it had

met respondent's approval, and that it was the opinion of some of the leading lawyers of the country that this order was constitutional. With some further conversation, espondent then inquired the names of the lawyers who had given the opinion, and he mentioned the names of two. Respondent then said that the object of the law vas not very evident, referring to the clause in the Appropriation act upon which the order purported to be based. This, according to respondent's recollection, was the substance of the conversation with Gen. Emory. Respondent denies that any allegation in the said

article of any instructions or declaration given to the said Emory, then or at any other time, contrary to or in addition to what is hereinbefore set forth, are true, Respondent devies that in said conversation with Emory e had any other intent than to express the opinions then given to the said Emory; nor did he then, or at any time, request or order the said Emory to disobey any law of my order issued in conformity with any law, or intend to offer any inducement to to the said Emory to violate any law. What this respondent then said to Gen. Emory was simply the expression of an opinion which he then fully believed to be sound, and which he yet believes to be so, and that is, that by the express provisions of the Constitution this respondent, as President, is made the commander in-Chief of the Armies of the United States, and as such he is to be respected, and that his orders, whether issued through the War Department, or through the General-in-Chief, or by any other channel of communication, are entitled to respect and obedience; and that such constitutional power cannot be taken from him by virtue of any act of Congress. Respondent does therefore deny that, by the expression of such opinion, he did commit, and was guilty of high misdemeanor in office; and this respondent doth further say, that the said article nine lays no foundation whatever for the conclusion stated in the said article that the respondent by reason of the alle gations therein contained, was guilty of a high misde meanor in office. In reference to the statement made by Gen. Emory, that this respondent had approved of said Act of Congress containing the section referred to, the respondent admits that his formal approval was given to said set, but accompanied the same, by the following pessage addressed, and sent with the Act to the House of Representatives, in which House the said Act origi ated, and from which it came to respondent;

matest, and from which it came to respondent:

To the House of Representatives:

The act entitled "An act making appropriations for the support of the army for the year ending June 30, 1868, and for other purposes," contains provisions to which I must call attention. These provisions are contained in the second section, which in certain cases virtually deprive the President of his constitutional functions as Commander-is-Chief of the army, and in the sixth section, which donies to ten States of the Union their constitutional right to protect themselves in any emergency by means of their own militia. These provisions are out of place in an appropriation, but I am compelled to defeat these necessary appropriations if I withhold my signature from the act. Pressed by these considerations I feel constrained to return the bill with my signature, but to accompany it with my earnest protest against the sections which I have indicated.

Washington, D. C., March 2, 1867.

Respondent, therefore, did no more than to express to

Respondent, therefore, did no more than to express to said Emory the same opinion which he had so expressed

ANSWER TO AUTICLE X .- And, in answer to the tenth article and specification thereto, the respondent says 1866, a political convention of delegates from all or most of the States and Territories of the Union, was held in the City of Philadelphia, under the name and style of the National Union Convention, for the purpose of maintain ing and advancing certain political views and opinions before the people of the United States, and for their support and adoption in the exercise of the Constitution suffrage, in the elections of Representatives and Delegates in Congress, which were soon to occur in many of the States and Territories of the Union, which said Con vention, in the course of its proceedings, and in further ance of the objects of the same, adopted a "Declaration of Principles," and "An address to the people of the United States," and appointed[a committee of two of its